

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO, ex rel.	)	
State Engineer,	)	No. 69 CV 07941 MV/KK
	)	
Plaintiff,	)	Rio Chama Adjudication
	)	
v.	)	Pueblo Claims Subproceeding 1
	)	
ROMAN ARAGON, et al.,	)	
	)	
Defendants.	)	
	)	

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**JOINT STATUS REPORT**

Pursuant to this Court's Order of June 11, 2019 (Document 11550), the undersigned Parties submit this Joint Status Report. The Parties are discussing possible resolution of all Ohkay Owingeh's water rights claims to all sources of water. As a result, this Joint Status Report is being filed simultaneously in the companion case styled *State of New Mexico ex rel. State Engineer v. Abbott*, No. 68-cv-07488 (MV/JHR).

1. Settlement Negotiations

Since the last status report, the Parties have held numerous telephonic meetings and several in-person meetings to continue settlement discussions. Under the leadership of Ohkay Owingeh and the United States, the Parties are focusing on the key components of a settlement that is intended to satisfy the Pueblo's need for water for a variety of purposes believed to be critical to the preservation of its homeland. During the duration of the most recent stay order, the Parties have discussed and made progress on the following issues: 1) infrastructure projects that may provide mutual benefits to various Parties; 2) groundwater resources; 3) potential agreements between specific Parties and the Pueblo; 4) water allocations during times of

shortage; 5) the Pueblo's detailed proposal on amounts and sources of water; and 6) mutually-acceptable means by which settlement of Ohkay Owingeh's water rights claims can be made final and certain.

Ohkay Owingeh had meetings with one or more of the negotiating Parties on the following dates:

- June 12: In-person meeting between Ohkay Owingeh and the Federal Assessment Team
- June 12: In-person meeting between Ohkay Owingeh and some Settlement parties on scope of settlement
- June 14: Telephonic meeting between Ohkay Owingeh and certain acequias
- June 27: In-person meeting between Ohkay Owingeh and the Federal Assessment Team
- July 2: Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team
- July 10: Telephonic meeting between Ohkay Owingeh and attorneys for State of New Mexico
- July 16: In-person meeting between Ohkay Owingeh and some settlement parties on scope of the settlement
- July 16: In-person meeting between Ohkay Owingeh and the Federal Assessment Team
- August 7: Telephonic meeting between Ohkay Owingeh and Rio Chama Acequias Association
- August 7: Telephonic meeting between Ohkay Owingeh and attorneys for State of New Mexico
- August 8: Telephonic meeting between Ohkay Owingeh and certain acequias parties
- August 12: Telephonic meeting between Ohkay Owingeh and certain acequias parties
- August 15: In-person meeting between Ohkay Owingeh and settlement parties to present the Pueblo's settlement proposal

August 22: Telephonic meeting between Ohkay Owingeh and attorneys for State of New Mexico

Sept. 9: Telephonic meeting between Ohkay Owingeh and the Federal Assessment Team

Sept. 23: In-person meeting between Ohkay Owingeh and the Federal Assessment Team

Sept. 23: In-person meeting between Ohkay Owingeh and certain settlement parties on the scope of the settlement

Sept. 24: In-person meeting between Ohkay Owingeh and certain settlement parties on shortage sharing and bosque restoration

Sept. 25: In-person meeting between Ohkay Owingeh and certain settlement parties on issues related to groundwater in the Pueblo's settlement proposal

Oct. 29: Telephonic meeting amongst attorneys for Ohkay Owingeh, Santa Clara Pueblo and the Department of Justice to discuss Rio Grande Claims

Oct. 30: Telephonic meeting between Ohkay Owingeh and the Rio Chama Acequias Association

Oct. 31: Telephonic meeting between Ohkay Owingeh and attorneys for Truchas Acequias

Nov. 4: In-person meeting between Ohkay Owingeh and certain settlement parties on groundwater and bosque issues

Nov. 5: In-person meeting between Ohkay Owingeh and certain settlement parties on the Pueblo's settlement proposal

Nov. 6: In-person meeting amongst Ohkay Owingeh, the Federal Assessment Team, and representatives of the Department of the Interior

Nov. 6: In-person meeting between Ohkay Owingeh and the City of Española

Nov. 6: Telephonic meeting between Ohkay Owingeh and staff of certain congressional representatives

Nov. 20: Telephonic meeting between Ohkay Owingeh and attorneys for the State of New Mexico

Nov. 26: Telephonic meeting between Ohkay Owingeh and City of Española

Dec. 5: Telephonic meeting between Ohkay Owingeh and certain settlement parties on shortage sharing and bosque issues

Dec. 9: In-person meeting between Ohkay Owingeh and the Federal Assessment Team

Dec. 10: In-person meeting between Ohkay Owingeh and certain settlement parties

In addition, counsel for Ohkay Owingeh have met frequently with the Pueblo's leadership, staff, and consultants to discuss the development of settlement proposals and the analyses of data in support of such proposals.

2. Scheduling of Dispositive Motions

The undersigned Parties' previous reports that the resumption of litigation would hamper their efforts to resolve Ohkay Owingeh's water rights claims through negotiation remain true. The undersigned Parties continue to be committed to the negotiation process. Therefore, they do not anticipate the need for this Court to schedule the filing and briefing of dispositive motions within the next six months.

3. Rescheduling the Trial

For the same reasons, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Expectations on Timing of Settlement

With the exception of a groundwater model, Ohkay Owingeh's and the United States' internal work compiling and analyzing the technical data necessary to support settlement proposals is largely completed. Completion of the groundwater model may take up to one year. Ohkay Owingeh has completed a draft comprehensive settlement proposal that has been submitted to the settlement parties, including a proposal submitted to the United States. Ohkay Owingeh anticipates that discussions for the next six months will focus on the provisions of that

proposal and the technical bases for the proposal. As a result, these settlement negotiations will extend into 2020. The timing of a settlement may largely depend on whether other Parties believe additional compilation and analysis of technical data are necessary to reach agreement and the completion of modeling analyses to assess impacts from settlement proposal scenarios.

5. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report six months from now, on June 10, 2020, at which time they will report to the Court on their progress and on the question of whether dispositive motions should be scheduled, or litigation should otherwise resume.

All Parties, except the City of Española, join in this Joint Status Report. For reasons not disclosed to the Parties, the City of Española states that it objects to this Joint Status Report and will file a separate report of its own.

Dated: December 10, 2019

Respectfully submitted,

*/s/ Curtis G. Berkey*

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*Declined to sign*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10th day of December, 2019, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

*/s/ Curtis G. Berkey*

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Curtis G. Berkey